

7th February 1925]

[The Raja of Panagal]

authorities, the Government are willing to give grants considered necessary. In the particular case referred to by my hon. Friend I am not sure if the damage is connected with last year's floods I have referred to. That is the reason why no grant has been made."

Rao Bahadur A. S. KRISHNA RAO PANTULU :—" I only wish to follow the remarks made by the hon. Member for Guntur. I think this is the occasion for the Government clearly to express their policy as to in what cases they will be in a position to make the grant. I only wish to lay emphasis upon the fact that where on account of the floods roads have been cut off the amount spent must not be debited to the normal expenditure of the local body concerned and the Government should be called upon to pay. Even in the case of trunk roads grants are made to the extent of Rs. 500 a mile. Whether the road is cut off or not this grant of Rs. 500 is not sufficient. I therefore urge that this should be taken as a standing principle, viz., where owing to floods a road has been cut off the expenditure should not be debited to the normal expenditure but should be treated as an expenditure for which Government should make the grant. I quite understand the difficulties of my hon. Friend from Guntur and I believe there may be several districts where for abnormal causes the roads have been cut off."

Sriman BISWANATH DAS Mahasaya :—" I am thankful to the hon. the Chief Minister for bringing forward this motion for grants for the districts that suffered in 1924. I am only sorry that my own district, Ganjam, is one of the districts that suffered very much in the year 1923. I would therefore appeal to him and request him to let me know as also the Council, as to what has been done regarding the severe damages that occurred in the other districts both in regard to the first class and second class bridges including the bridge in Itchapur which the hon. Minister has himself seen with his own eyes and His Excellency also has visited. I would therefore request him to let me and the Council know when he would take up the repairs of these bridges and whether he would be willing to allot money in this year's budget."

* The hon. the RAJA OF PANAGAL :—" In reply to the question raised by my hon. Friend from Ganjam, I have only to say that some arrangements have already been made by the Ganjam district board and other questions are under consideration. As to the question raised by my hon. Friend from Nellore, I would say that the concession was made only in cases where damage is due to exceptional causes. There may be ordinarily floods in a year and the roads may be damaged. Such damage is not treated as being due to exceptional causes. If the damage is due to abnormal causes, the question of giving special grants will be considered."

The motion was put to the House and carried and the grant was made.

VI

THE MADRAS CIVIL COURTS BILL.

* The hon. Mr. C. P. RAMASWAMI AYYAR :—" Mr. President, Sir, I beg to present the ^a report of the Select Committee, on recommitment; on the Bill to amend and consolidate the Madras Civil Courts Act, 1873. I think hon.

^a Printed as Appendix II on pages 521-524 infra.

[Mr C. P. Rāmaswami Ayyar] [7th February 1925]

Members of this House will be glad to learn, as a result of the discussion on the recommitment of the Bill to the Select Committee which sat on this matter, they have come to a unanimous conclusion with reference to the procedure to be followed to-day. They have in consonance with the mandate of this Council considered the question of an amending Bill and confined their attention to three points, viz., the number of subordinate judges to be appointed for a subordinate court or the number of district munsifs to be appointed to a district munsif court, control over establishment in regard to the courts so constituted, and small cause jurisdiction. I think it is necessary to explain that originally the select committee wanted to confer 300 rupees jurisdiction so far as munsifs are concerned. When we again went into the Select Committee, they thought 200 rupees was enough, and I may say that subsequent to the deliberations of the Select Committee other opinions have been expressed which also confirm the idea that 200 rupees jurisdiction would be enough. Therefore the Select Committee has left this matter for this hon. House to decide, namely, whether it should be Rs. 200 or be increased to Rs. 300.

"In view of the course advocated in this House and suggested by the Select Committee, the Bill has taken the form of an amendment of the Civil Courts Act, without being a consolidating Act. Now, Sir, I move that the Bill as now amended by the Select Committee be taken into consideration."

The hon. Mr. N. E. Marjoribanks seconded the motion.

The motion was put and carried.

Clause 1.

The hon. Mr. C. P. RAMASWAMI AYYAR:—"I move that clause 1 of the Bill be passed."

The hon. Mr. N. E. Marjoribanks seconded the motion.

Clause 1 was put, passed and added to the Bill.

Clause 2.

* The hon. Mr. C. P. RAMASWAMI AYYAR:—"I may say in moving clause 2 that it is an amplification of the original clause 4 by the addition of another paragraph. One amendment of which notice has been given is that 'instead of the words "in consultation with" substitute the words "after taking the opinion of"'. I think both mean the same thing."

The hon. Mr. N. E. Marjoribanks seconded.

Mr. MUHAMMAD GHOUSE MIAN SAHIB:—"Sir, I have just now sent some amendments to the Bill. I do not know whether these amendments could be moved now."

* The hon. Mr. C. P. RAMASWAMI AYYAR:—"I am not going to take any objection on the ground of want of notice. But at the same time I may say that the sentiment of the House was generally to proceed only with the question of increasing the number of judges and not to take any further points. If any amendments would facilitate that course, I have no objection."

Mr. MUHAMMAD GHOUSE MIAN SAHIB:—"I have handed over certain amendments to the Secretary. The first amendment is with reference to clause 2 of the Act that the words 'in consultation with the High Court' be

7th February 1925] [Mr. Muhammad Ghouse Mian Sahib]

omitted altogether. The reason why I brought this is this. In the old Act no power was given at all to the High Court in the matter of appointments. The number of subordinate judges to be appointed under this Act shall be fixed and may from time to time be varied by the local Government."

* The hon. Mr. C. P. RAMASWAMI AYYAR :—" I do not want to interrupt the speech of the hon. Member. But here there is no question of appointment. The question is whether a particular court should have one or two judges. Naturally the court which is administering judicial affairs throughout the Presidency, viz., the High Court, will be in a better position to advise us. I do not say the advice is binding upon us. Otherwise the Member in charge, viz., the Law Member, will hear the representations on every occasion whenever a court has to be newly instituted or an existing court has to be abolished. When the Government get a number of petitions and mahazars it is found very difficult for them to decide. The House will agree that the Government will be greatly helped by the advice of the High Court as to whether one judge or two judges are necessary in a particular place."

Mr. MUHAMMAD GHOUSE MIAN SAHIB :—" My point is whether by the introduction of this Bill we are not introducing any new powers which did not vest in the High Court at the time when the Government of India Act came into existence. That was the only objection which I wanted to raise. If we are not providing any new power to the High Court, I shall withdraw."

The amendment was by leave withdrawn.

Mr. A. RAMASWAMI MUDALIYAR :—" The purpose of my amendment is this. I merely intended to make it perfectly clear that the responsibility of appointing these additional officers must be solely with the Local Government and it is a responsibility which cannot be shared by the High Court in any sense of the term. I thought that the phrase 'in consultation with' lent itself to some ambiguity and therefore I proposed the amendment 'after taking the opinion of'. Because it is obvious, when the salaries of those judges have to be voted in the Legislative Council, the Local Government should not be in a position to say that they must consult the High Court."

* The hon. Mr. C. P. RAMASWAMI AYYAR :—" I think I can solve this problem. If it is felt that the words 'in consultation with' involve a certain sharing or rather curtailment of responsibility, 'after consultation with' will certainly make the position clearer."

Mr. A. RAMASWAMI MUDALIYAR :—" I have no objection. The 'in' may be replaced by 'after'."

Mr. B. Muniswami Nayudu seconded the motion.

The amendment was put and carried.

The clause as amended was put and carried and added to the Bill.

Clause 3.

Rai Bahadur T. M. NARASIMHACHARLU :—" I have got an amendment to this clause. My amendment is to substitute the word 'senior' for the word 'one' in line 3. The intention of the Government is that instead of establishing more courts there might be appointed more subordinate judges or munsifs to one court. It may happen that the person who is already in that

[Mr T. M. Narasimhacharlu] [7th February 1925]

court, whether he is a sub-judge or munsif, may be a junior and it may also happen that the person who is sent to dispose of arrears may be a senior and a tried person in the disposal of suits. In that case the junior will be asked to distribute the work. As it is now proposed, whether junior or senior, the judge who is presiding over the court will be asked to be in administrative control of the court."

* The hon. Mr. C. P. RAMASWAMI AYYAR:—"I may cut short the discussion by saying that the Government will take care to see that the principal judge will not be the junior judge. But to say 'senior' in a statute will create difficulty. The intention of the Government is not to supersede the senior judge, but normally to appoint a senior judge."

Rai Bahadur T. M. NARASIMHACHARLU:—"I do appreciate the remarks of the hon. the Law Member. All I want to say is that friction is likely to arise if the distribution of work is given to one and the administrative control is given to another."

The hon. Mr. C. P. RAMASWAMI AYYAR:—"That is not the intention."

Rai Bahadur T. M. NARASIMHACHARLU:—"If the Government is going to give the same powers to both the persons and probably more to the senior of the two judges, I submit there will be no friction. All I wish to point out is that the Government in amending the Bill need not bring in unnecessary friction. If that is kept in mind as promised by the Law Member, I do not press my amendment."

The amendment was by leave withdrawn.

12-30 p.m. Mr. G. RAMESWARA RAO:—"Sir, I beg to move for the substitution of the following for the existing paragraph (3):—

"The District Judge may, from time to time, make such arrangements, as he thinks fit, for the distribution of business of the Courts of the Subordinate Judge or Munsif among the various judges thereof."

"I fear that the clause as it stands in the Bill would give room to misunderstanding between the different courts. As a matter of fact there would be a good lot of feeling when two munsifs or two subordinate judges have to dispose of the same class of cases. It might be that the High Court might change its angle of vision and begin to judge the capacity of these officers by the quality of work turned out by them instead of by the number of cases disposed of. But still there is the old sentiment and consequently there would be a rivalry, a healthy one though, between them to show a greater number of cases disposed of. Therefore, for the purpose of showing greater disposal of cases, tougher cases would be attempted to be shoved off to one officer's file. This would create misunderstanding between two sub-judges or between two munsifs. It is to avoid giving rise to this misunderstanding that I have proposed this amendment."

Rai Bahadur T. M. NARASIMHACHARLU:—"I second it."

* The hon. Mr. C. P. RAMASWAMI AYYAR:—"My hon. Friend forgets that if the District Judge is to be given this power, he may have to examine all the cases for distribution to find out which is simple and which is tough? What I would suggest is that there would be rules framed for this purpose and there would be an attempt made to lay down principles according to which the distribution should be made."

The amendment was by leave withdrawn.

7th February 1925]

Mr. MUHAMMAD GHOUSE MIAN SAHIB :—"In the Bill which emerged from the Select Committee after re-committal I see a provision in the third paragraph of clause 4-A. It seems to me that in view of this provision, the second paragraph of section 11, which is proposed to be omitted, should be retained."

* The hon. Mr. C. P. RAMASWAMI AYYAR :—"Mr. President, Sir, my hon. Friend, the Mover, has given notice of that amendment. But I would point out to him that from certain points of view emphasised in this Council the present draft is in a better form."

Mr. MUHAMMAD GHOUSE MIAN SAHIB :—"But that will be taking away the power of the High Court which is *ultra vires*."

* The hon. Mr. C. P. RAMASWAMI AYYAR :—"My hon. Friend need not worry about that. These questions have been examined and these motions have been put forward with advertence to that."

Clause 3 was put and carried and added to the Bill.

* The hon. Mr. C. P. RAMASWAMI AYYAR :—"Sir, in moving clause 4, I may say in explanation of (b) that it is in consequence of the enactment in a comprehensive way of clause 3."

Clause 4 was put and carried and added to the Bill.

Clauses 5 and 6 were put and carried and added to the Bill.

Clause 7.

* The hon. Mr. C. P. RAMASWAMI AYYAR :—"Sir, I move that the words 'Rs. 200' be substituted for the words 'Rs. 300' as this is an amendment proposed by the more recent Select Committee. If hon. Members think that it should be three hundred only, they may propose an amendment to that effect."

Mr. B. MUNISWAMI NAYUDU :—"This is an amending Bill. The original Civil Courts Act contains Rs. 200 only and therefore if nobody moves an amendment it stands as it is."

* The hon. Mr. C. P. RAMASWAMI AYYAR :—"Probably the best way in which I can start discussion would be by saying that I do not move clause 7."

* Mr. C. V. VENKATARAMANA AYYANGAR :—"Sir, with the permission of the House I would move clause 7, viz., 'in section 28 of the said Act for the words "rupees two hundred" the words "rupees three hundred" shall be substituted'. The view of the Act is that only in special cases should district munsifs be given higher powers. We know that some years ago the practice was to give only for a few munsifs power to deal with cases of Rs. 200 and Rs. 100 and other munsifs who were appointed were empowered only to deal with cases of the value of Rs. 50. We must remember that the value of the rupee has gone down very much and therefore what was really a suit of Rs. 100 before is now a suit of Rs. 50. It is more or less on that basis that the Court Fees Act was amended by raising the fees. It was said at that time that the value of land and other things had gone up and that the value of the rupee had gone down. Therefore there is no use of our sticking to the old rule. It is on that ground that the amendment of the Court Fees Act

[Mr. C. V. Venkataramana Ayyangar] [7th February 1925]

was supported by many members of this House. Now coming to the amendment we are discussing, we know that the original jurisdiction of the district munsifs was only Rs. 2,500. It was later raised to Rs. 3,000 for the chief reason that the value of the rupee had gone down. We must not forget that the value of rupee has gone down by about 50 per cent since then. We must also remember that small cause suits are more or less of a formal nature and if any statistics are taken it will be clear that a very large percentage of such suits are uncontested suits. Of course one objection that can be taken to this amendment is that by giving larger jurisdiction to the district munsifs you will be depriving the unsuccessful party of the opportunity of an appeal. But when one remembers that a large number of these small cause suits are not contested, it will be evident that there is very little chance of their coming up for appeal. The district munsifs have a very satisfactory record and we are attempting day by day to improve their status and position. In fact their pay has been lately raised from Rs. 200 to Rs. 300. Therefore, seeing that we have got a class of munsifs with a higher pay than before, that the value of money has gone down since what was really a suit of Rs. 200 in the old days is only a suit for Rs. 100 now and that there is a feeling that we should reduce litigation as much as possible—in this case small cause suits are generally speaking based on documents and therefore there is no necessity for providing a right of appeal—there is no reason why we should not increase the jurisdiction of some of the munsifs. I do not say that the jurisdiction of all the munsifs may be increased. It seems to me that when a munsif, a first grade munsif, has been even sometimes probably acting as a subordinate judge there is no reason why he should not be given special powers by the High Court to dispose of small cause suits up to Rs. 300. I would therefore, Sir, from the point of view of economy and for other considerations, suggest that we should pass this amendment. Perhaps it will be argued that he would become irresponsible if his jurisdiction is extended. To that I would say, if you do not treat him properly, if you treat him like a school boy or a child not able to walk, he will feel no responsibility at all. Since 90 per cent of the cases disposed of are not being appealed against and since their decision is almost final in such matters these munsifs will realise their responsibility and carefully dispose of the cases. I therefore request my hon. Friends many of whom are lawyers to forget personalities and to view this from the point of view of retrenchment and public interest and see if my amendment should not be accepted. I hope the majority of the House would support me."

The motion was duly seconded.

Diwan Bahadur M. KRISHNAN NAYAR:—"I oppose my hon. Friend's suggestion and support the suggestion of the hon. the Law Member. Having regard to human nature there can be no doubt whatever that district munsifs and judges will pay more attention to cases which are appealable than to cases which are unappealable. Because the decisions in small cause suits are not appealable and because in the mufassal particularly Rs. 300 is to many persons a very large amount, I am not for giving jurisdiction to munsifs for any sum over Rs. 200. So, the suggestion made by my hon. Friend, the Law Member, that it should be restricted to Rs. 200 should be adopted. My hon. Friend referred to personalities and personal considerations. In fact, we have nothing to do with personalities and personal considerations in such a small matter as this."

7th February 1925]

Mr. C. V. VENKATARAMANA AYYANGAR :—“I only referred to ‘personal’ to mean that individual experience of hon. Members might have been unfortunate, but that they should not take it as the general rule on account of that.”

Diwan Bahadur M. KRISHNAN NAYAR :—“Whatever may be our experience in this matter, I am certainly for fixing the value at Rs. 200 and not for enhancing it.”

* Mr. R. SRINIVASA AYYANGAR :—“I feel constrained to oppose the motion of my friend from Coimbatore. It is not possible having regard to some principles which I shall lay before the House to support the motion of my hon. Friend from Coimbatore. The hon. Member from Coimbatore referred us to three reasons which taken up separately and cumulatively cannot stand the test of reason or cold logic or expediency. Hon. Members of this House may perhaps be aware of the fact that time was when district munsifs started with a small cause jurisdiction of Rs. 50. Thereafter ten years ago the minimum was fixed at Rs. 100, the maximum having been fixed at Rs. 200. After the munsifs have gained some experience, on the recommendation of the district judges and on the recommendation of the High Court Judges their jurisdiction to try certain classes of cases was raised to Rs. 150 and Rs. 200 and the Government took care to state in their notification that extension of jurisdiction was purely personal. The hon. the Mover of the amendment wants to raise it to Rs. 300. What are the reasons? The first is that the purchasing power of the rupee has gone down and that the original value of Rs. 50 must be considered to be Rs. 100 or Rs. 200, now. If the purchasing power of the rupee has gone down it must be freely acknowledged that the price of food-stuffs has gone up and that the cost of living has increased *pari passu*. The learned Mover said that the district munsifs are being started at a much higher salary than before. It is impossible to see what relationship could subsist between the higher pay of the district munsifs and the higher jurisdiction he wants them to be invested with. There seems to be absolutely no connexion between the one and the other. The hon. Mover also said that most of the litigations are purely formal. As against that statement my experience is otherwise. He also said that if we raise the small cause jurisdiction to Rs. 300 it will reduce litigation, by introducing an element of responsibility on the part of judicial officers. The hon. the Mover says that if you take away the right of appeal to that extent the district munsifs will begin to realize their sense of responsibility and are likely to bestow greater amount of attention on their cases, being obsessed by the fact that these unfortunate men against whom they are going to give their decision are deprived of the right of appeal. I am, however, of a different opinion, and my view is that the moment you extend the jurisdiction you will be introducing an element of irresponsibility which ought to be deprecated. Therefore having these things before me, I am tempted to use these arguments against my hon. Friend the Mover of the amendment. I am inclined to accept the recommendations of the present Select Committee and the view put forward by the hon. the Law Member and feel constrained to oppose the motion.”

The amendment was put to vote and negatived.

The preamble was put, passed and added to the Bill.

[7th February 1925]

* The hon. Mr. C. P. RAMASWAMI AYYAR :—" I move that the Bill as amended in the Select Committee and as further amended in the Council be passed into law."

The hon. Rao Bahadur Sir A. P. PATRO :—" I second it."

The motion was carried.

The Bill was passed into law.

VII

MOTIONS ON MATTERS OF GENERAL PUBLIC INTEREST.

RESTORATION OF THE SUPPLY CHANNEL FROM THE KODAKKAL TANK TO THE SURAI TANK IN THE NORTH ARCOT DISTRICT.

Diwan Bahadur W. VIJAYARAGHAVA MUDALIYAR :—" Sir, I move the resolution that stands in my name and which runs as follows :—

'That this Council recommends to the Government that the supply channel leading water from the Kodakkal tank to the Surai tank in the North Arcot district which has fallen into disrepair and disuse may be restored and repaired without further delay' "

Rai Bahadur T. M. NARASIMHACHARLU :—" I second it."

* The hon. Mr. C. P. RAMASWAMI AYYAR :—" Mr. President, Sir, I had the advantage of having a personal talk with the hon. Member who has been responsible for the motion. Our difficulty with regard to this question was on account of the conflicting rights between the Zemindari and the Inamdar tenants and the Government and the possibility of litigation between these tenants and the Government, should the latter embark upon this project. The Superintending Engineer has been asked to report on this matter, and he has now suggested modification which may possibly solve the difficulty. My hon. Friend has been shown the papers relating to this matter. We have asked for a report from the Collector and, if on receipt of that report we find it possible to take up this project without embarking on costly and unnecessary litigation, we shall do so. That is all we can say at the present moment pending the receipt of the report from the Collector."

Diwan Bahadur W. VIJAYARAGHAVA MUDALIYAR :—" I may say that the original channel has fallen into disrepair and that the Public Works Department who were approached for repairing and restoring it inspected the channel and said there was some difficulty in finding means to take the water to the tank, and that it was likely to involve the Government in litigation. Therefore the proposal was given up by the Government. The ryots in the village say that the views of Government about litigation are all imaginary, and that the ryots are not particular about the way of the channel. All that they want is water for their fields. If the Government undertake to see that the ryots get water as early as possible they will be satisfied. Numbers of years have been spent in investigation. I only hope that the hon. the Law Member will see that the grievances of the ryots are redressed as early as possible. However, in view of the sympathetic reply of the hon. the Law Member I beg to withdraw my resolution."

The resolution was by leave withdrawn.